Washington Trust Bank
Member FDIC

PPP IFRs and Guidance

Thank you for selecting Washington Trust Bank as your financial partner in the Paycheck Protection Program (PPP). This continues to be a fluid and challenging process, and Washington Trust remains committed to supporting you every step of the way. We are dedicated to helping you, your business and your employees during this unprecedented time.

As you know, the SBA is consistently issuing new guidance, which affects PPP rules and procedures. Keeping you informed of these updates remains our top priority.

The SBA recently issued a substantial, 62 page, Interim Final Rule (IFR) that largely encompasses the forgiveness aspect of your PPP loan. Although some of the information closely mirrors the forgiveness rules from the first round of PPP, the IFR also offers new guidance that will potentially affect the manner in which you apply for and spend your funds. We have summarized the information as succinctly and intuitively as possible and we believe it will serve as a valuable resource for you and your business. The IFR is lengthy and not all of the information will apply to your circumstances. For your convenience, we have organized and structured the material for you in a way you can find applicable information. We encourage you to review the entire summary, but the table of contents should help direct you to any specific questions or concerns you may have. You will also find "Washington Trust Tips" highlighted throughout the document, emphasizing new and important information we believe will be critical in your PPP process.

Finally, we know many of you have already applied for a PPP loan this round, and some of this information may change or alter the rules under which you previously applied.

As always, please reach out to your banker with any questions or concerns.

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General PPP Loan Forgiveness Information

What is eligible for forgiveness?

The Small Business Act provides that borrowers shall be eligible for forgiveness of their PPP loan in an amount equal to the sum of the following costs incurred and payments made during their covered period:

- Payroll costs for business employees. Includes compensation to employees (whose principal place of residence is the United States) for the following:
  - i. Salary, wages, commissions, or similar compensation (maximum per individual is $100,000 prorated for the covered period);
  - ii. Cash tips or the equivalent (based on employer records of past tips or, in the absence of such records, a reasonable, good-faith employer estimate of such tips);
  - iii. Employee vacation, parental, family, medical, or sick leave;
  - iv. Allowance for separation or dismissal;
  - v. Employee group health care or group life, disability, vision, or dental insurance, including insurance premiums;
  - vi. Employee retirement benefits; and
  - vii. State and local taxes assessed on compensation of employees.
- Payroll costs for independent contractor or sole proprietor. Includes:
  - i. Wages, commissions, income, or net earnings from self-employment, or similar compensation (maximum per individual is $100,000 prorated for the covered period). Payroll costs that are qualified wages taken into account in determining the Employer Retention Credit are not eligible for loan forgiveness.

Washington Trust Tip: The SBA expanded forgivable employee expenses to include payments for paid time off including vacation, parental, family, medical, or sick leave, allowance for separation or dismissal, payment for the provision of employee benefits consisting of group health care or group life, disability, vision, or dental insurance, including insurance premiums, and retirement. Furthermore, although payroll costs that are qualified wages taken into account in determining the Employer Retention Credit (ERC) are not eligible, you still may qualify for the Employer Retention Tax Credit and should consult your CPA.

- Interest: Payments on business mortgage obligation on real or personal property incurred before February 15, 2020 (but not any prepayment or payment of principal).
- Rent: Payments on business rent obligations on real or personal property under a lease agreement in force before February 15, 2020.
- Utilities: Business utility payments for electricity, gas, water, transportation, telephone, or internet access for which service began before February 15, 2020.
- Covered operations expenditures: A payment for business software or cloud computing service for business operations, product or service delivery, the processing, payment, or tracking of payroll expenses, human resources, sales and billing functions, or accounting or tracking of supplies, inventory, records and expenses.

Washington Trust Tip: This is a new eligible expense available for this round of PPP.

- Covered property damage costs: Includes uninsured cost related to property damage, vandalism or looting due to public disturbances in 2020.

Washington Trust Tip: This is a new eligible expense available for this round of PPP.

- Covered supplier costs: Includes expenditures to a supplier of goods for the supply of goods that are essential to the operations of the borrower at the time at which the expenditure is made; and has a contract, order, or purchase order that was in effect at any time before the elected covered period with respect to the applicable covered loan; or with respect to perishable goods, in effect before or at any time during the elected covered period.

Washington Trust Tip: This is a new eligible expense available for this round of PPP.

- Covered worker protection expenditures: Includes an operating or a capital cost to adaptation of the business activities of an entity to comply with requirements or guidance for COVID-19 issued by the Department of Health and Human Services, the Centers for Disease Control, or the Occupational Safety and Health Administration, or any State or local government related to sanitation. This includes social distancing, or any other worker or customer safety requirement related to COVID–19, between March 1, 2020 and the date in the future on which the national emergency expires. Examples include the purchase, maintenance, or renovation to create or expand:
  i. A drive-through window facility;
  ii. An indoor, outdoor, or combined air or air pressure ventilation or filtration system;
  iii. A physical barrier such as a sneeze guard;
  iv. An expansion of additional indoor, outdoor, or combined business space;
  v. An onsite or offsite health screening capability; or
  vi. Personal protective equipment.

Washington Trust Tip: This is a new eligible expense available for this round of PPP.

The same 60/40 rule applies to this round of PPP: 60% of funds must be spent on payroll costs (as defined above) and 40% can be spent on "non-payroll costs" (interest, rent, utilities, covered operation expenditures, covered property damage costs, covered supplier costs, covered worker protection expenditures).

For individuals with self-employment income who file a Form 1040, Schedule C or F, what is eligible for forgiveness?

The amount of loan forgiveness can be up to the full PPP loan plus accrued interest. The actual amount of loan forgiveness will depend, in part, on the total amount spent during the covered period on:

- Payroll costs including salary, wages, and tips, up to $100,000 of annualized pay per employee, as prorated for the period during which the payments are made or the obligation to make the payments is incurred (maximum per individual is $100,000 prorated for the covered period, e.g., for an 8 week covered period a maximum of $15,385 and for a 24 week covered period a maximum of $46,154), as well as covered benefits for employees (but not owners), including health care expenses, retirement contributions, and state taxes imposed on employee payroll paid by the employer (such as unemployment insurance premiums), but excluding any qualified wages taken into account in determining the Employer Retention Credit;

Washington Trust Tip: "Covered Period" is now defined to include any time between 8 and 24 weeks you prefer, as opposed to only having a choice between 8 or 24 weeks.

- Owner compensation replacement, calculated based on 2019 or 2020 net profit. Forgiveness of such amounts is limited to either (a) the prorated portion of 2019 or 2020 net profit for a covered period up to 2.5 months, or (b) 2.5 months' worth (2.5/12) of 2019 or 2020 net profit (up to $20,833) for a covered period greater than 2.5 months, excluding any qualified sick leave equivalent amount;

- For specific deductible expenses on Form 1040 Schedule C or F:
  i. Payments of interest on mortgage obligations on real or personal property incurred before February 15, 2020;
  ii. Rent payments on lease agreements in force before February 15, 2020;
  iii. Utility payments under service agreements dated before February 15, 2020;
  iv. Covered operations expenditures (as defined above); and
  v. Covered worker protection expenditures (as defined above).

Loan Forgiveness Process

What is the process to apply for and obtain loan forgiveness?

To receive loan forgiveness on a PPP loan, you must complete and submit the appropriate loan forgiveness application to the bank servicing your PPP loan.

Washington Trust Tip: Forgiveness forms are: (i) SBA Form 3508; (ii) 3508EZ; (iii) 3508S; and (iv) a simplified SBA Form 3508S for loans not more than $150,000.00.

For second draw PPP loans in excess of $150,000, you must submit its loan forgiveness application for the first draw PPP loan before or simultaneously with the loan forgiveness application for the second draw PPP loan, even if you do not qualify for forgiveness on the first draw PPP.

Washington Trust has 60 days after receipt of your application to issue a decision to the SBA. The SBA will, subject to any SBA review of your loan(s) or loan application(s), remit the appropriate forgiveness amount to Washington Trust, plus any interest accrued through the date of payment, within 90 days after Washington Trust issues its decision to the SBA.

Washington Trust Tip: If you received EIDL advance this will not reduce the amount of forgiveness to which you are entitled and will not be deducted from the forgiveness amount.

If the SBA determines that, you are ineligible for the PPP loan as a result of:

- Violation under the statute or law;
- Violation of the SBA rules or guidance available at the time of your loan application; or
- The terms of your PPP loan application are in error (for example, because you lacked an adequate basis for the certifications that you made in your PPP loan application).

your loan will not be eligible for loan forgiveness.

What is the timeline for applying for forgiveness and/or making a payment on the loan if not fully forgiven?

You may submit a loan forgiveness application any time within 10 months after the last day of your elected covered period as long as you have used all of the loan proceeds for which you are requesting forgiveness. If you are applying for forgiveness of a second draw PPP loan that is more than $150,000 then you must submit the loan forgiveness application for your first draw PPP loan before or simultaneously with the loan forgiveness application for your second draw PPP loan. If you apply for forgiveness and the SBA determines you are not eligible for full forgiveness, your first payment will be due one month following the day of that decision.

Washington Trust Tip: It is crucial you fill out the appropriate forgiveness application. Please work with your Washington Trust banker to ensure you fill out the appropriate application.

When must payroll costs be incurred and/or paid to be eligible for forgiveness?

In general, payroll costs (defined above) paid or incurred during your covered period are eligible for forgiveness. For purposes of loan forgiveness, your covered period is the period beginning on the date the Washington Trust disburses your PPP loan and ending at any time you choose between 8 weeks and 24 weeks after that the disbursement date.

Washington Trust Tip: The covered periods for a first draw PPP loan and a second draw PPP loan cannot overlap; you must use all proceeds of the first draw PPP loan for eligible expenses before disbursement of the second draw PPP loan.

Payroll costs incurred during your last pay period of your covered period are eligible for forgiveness if paid on or before the next regular payroll date; otherwise, payroll costs must be paid during the covered period to be eligible for forgiveness. Payroll costs generally are incurred on the day your employee's pay is earned (i.e., on the day the employee worked). For employees who are not performing work but are still on your payroll, payroll costs are incurred based on the schedule established by your business (typically, each day that the employee would have performed work).

Are salary, wages, or commission payments to furloughed employees; bonuses; or hazard pay during the covered period eligible for loan forgiveness?

Yes. The term "payroll costs" is defined broadly to include compensation in the form of salary, wages, commissions, or similar compensation. If you pay furloughed employees their salary, wages, or commissions during your covered period, those payments are eligible for forgiveness as long as they do not exceed an annual salary of $100,000, as prorated for the period during which the payments are made or the obligation to make the payments is incurred. Additionally, if an employee's total compensation does not exceed $100,000 on an annualized basis, as prorated for the period during which the payments are made or the obligation to make the payments is incurred, the employee's hazard pay and bonuses are eligible for loan forgiveness because they are considered as a form of compensation.

Are there caps on the amount of forgiveness available for owner-employees and self-employed individuals' own payroll compensation?

Yes. Forgiveness is capped at 2.5 months' worth (2.5/12) of an owner-employee or self-employed individual's 2019 or 2020 compensation (up to a maximum $20,833 per individual in total across all businesses).

Washington Trust Tip: For first draw PPP loans made in 2020, the cap is based on 2019 compensation. For first draw PPP loans made in 2021 and all second draw PPP loans, it is capped based on the year (2019 or 2020) that you used to calculate the loan amount.

Your total compensation may not exceed $100,000 on an annualized basis, as prorated for the period during which the payments are made or the obligation to make the payments is incurred. For example, if you elect to use an 8 week covered period, the amount of loan forgiveness requested for owner-employees and self-employed individuals' payroll compensation is capped at 8 weeks' worth (8/52) of 2019 or 2020 compensation (i.e., approximately 15.38 percent of 2019 or 2020 compensation) or $15,385 per individual, whichever is less, in total across all businesses.

If you elect to use a 10 week covered period, the cap is 10 weeks' worth (10/52) of 2019 or 2020 compensation (approximately 19.23 percent) or $19,231 per individual, whichever is less, in total across all businesses.

For a covered period longer than 2.5 months, the amount of loan forgiveness requested for owner-employees and self-employed individuals' payroll compensation is capped at 2.5 months' worth (2.5/12) of 2019 or 2020 compensation (up to $20,833) in total across all businesses.

C-corporation owner-employees are capped by the prorated amount of their 2019 or 2020 employee cash compensation and employer retirement and health, life, disability, vision and dental insurance contributions made on their behalf.

S-corporation owner-employees are capped by the prorated amount of their 2019 or 2020 employee cash compensation and employer retirement contributions made on their behalf. However, employer health, life, disability, vision and dental insurance contributions made on their behalf cannot be separately added; those payments are already included in their employee cash compensation.

Schedule C or F filers are capped by the prorated amount of their owner compensation replacement, calculated based on 2019 or 2020 net profit.

General partners are capped by the prorated amount of their 2019 or 2020 net earnings from self-employment (reduced by claimed section 179 expense deduction, unreimbursed partnership expenses, and depletion from oil and gas properties) multiplied by 0.9235.

For self-employed individuals, including Schedule C or F filers and general partners, retirement and health, life, disability, vision or dental insurance contributions are included in their net self-employment income and therefore cannot be separately added to their payroll calculation. LLC members are subject to the rules based on their LLC's tax filing status in the reference year used to determine their loan amount.

Are any individuals with an ownership stake in a PPP borrower exempt from application of the PPP owner-employee compensation rule when determining the amount of their compensation that is eligible for loan forgiveness?

Yes, owner-employees with less than a 5 percent ownership stake in a C- or S-corporation are not subject to the owner-employee compensation rule.

Non-Payroll Costs

When must non-payroll costs be incurred and/or paid to be eligible for forgiveness?

A non-payroll cost is eligible for forgiveness if it was:

- Paid during your covered period; or
- Incurred during your covered period and paid on or before the next regular billing date, even if the billing date is after your covered period.

Example: A borrower that received a loan before June 5, 2020 uses a 24 week covered period that begins on June 1 and ends on November 15. The borrower pays its electricity bills for June through October during the covered period and pays its November electricity bill on December 10, which is the next regular billing date. The borrower may seek loan forgiveness for its June through October electricity bills, because they were paid during the covered period. In addition, the borrower may seek loan forgiveness for the portion of its November electricity bill through November 15 (the end of the covered period), because it was incurred during the covered period and paid on the next regular billing date.

Washington Trust Tip: Remember, the 60/40 payroll/non-payroll cost rule still applies for this round.

Are advance payments of interest on mortgage obligations eligible for loan forgiveness?

No. Advance payments of interest on a covered mortgage obligation are not eligible for loan forgiveness. Principal on mortgage obligations is not eligible for forgiveness under any circumstances.

Are amounts attributable to the business operation of a tenant or sub-tenant of the PPP borrower or, in the context of home-based businesses, household expenses, eligible for forgiveness?

No, the amount of loan forgiveness requested for non-payroll costs may not include any amount attributable to the business operation of a tenant or sub-tenant of the PPP borrower or, for home-based businesses, household expenses. Examples:

- Example 1: A borrower rents an office building for $10,000 per month and sub-leases out a portion of the space to other businesses for $2,500 per month. Only $7,500 per month is eligible for loan forgiveness.
- Example 2: A borrower has a mortgage on an office building it operates out of, and it leases out a portion of the space to other businesses. The portion of mortgage interest that is eligible for loan forgiveness is limited to the percent share of the fair market value of the space that is not leased out to other businesses. As an illustration, if the leased space represents 25% of the fair market value of the office building, then the borrower may only claim forgiveness on 75% of the mortgage interest.
- Example 3: A borrower shares a rented space with another business. When determining the amount that is eligible for loan forgiveness, the borrower must prorate rent and utility payments in the same manner as on the borrower's 2019 tax filings, or if a new business, the borrower's expected 2020 tax filings.
- Example 4: A borrower works out of his or her home. When determining the amount of non-payroll costs that are eligible for loan forgiveness, the borrower may include only the share of covered expenses that were deductible on the borrower's 2019 tax filings, or if a new business, the borrower's expected 2020 tax filings.

Potential Reductions to Loan Forgiveness Amount for PPP loans over $50,000

The Small Business Act specifically requires certain reductions in your loan forgiveness amount based on reductions in full-time equivalent employees or in employee salary and wages. It includes an important exemption for borrowers that restored the number of employees and have restored salaries and wages on or before December 31, 2020 (or, for a PPP loan made on or after December 27, 2020, not later than the last day of the loan's covered period). The SBA also allows exemptions from reductions in loan forgiveness amounts based on employee availability and business activity.

Washington Trust Tip: There are exemptions to the reduction rules for borrowers that: (i) have offered to restore employee hours at the same salary or wages, even if the employees have not accepted; (ii) fired an employee for cause or have an employee that voluntarily resigns or voluntarily requests a schedule reduction; (iii) eliminate reductions by December 31, 2020 or, for a PPP loan made after December 27, 2020, the last day of the loan's covered period; or (iv) have a PPP loan of $50,000.00 or less. The instructions to your forgiveness applications explain how the forgiveness reduction formulas work.

Will your loan forgiveness amount be reduced if you reduced the hours of an employee, then offered to restore the reduction in hours, but the employee declined the offer?

No. This is similar to the first round of PPP. In calculating your loan forgiveness amount, you may exclude any reduction in full-time equivalent employee headcount that is attributable to any employee if:

i. You made a good faith, written offer to restore the reduced hours;
ii. The offer was for the same salary or wages and same number of hours as earned by such employee in the last pay period prior to the reduction in hours;
iii. The offer was rejected by the employee; and
iv. You maintained records documenting the offer and its rejection.

What effect does a reduction in your number of full-time equivalent employees have on your loan forgiveness amount?

In general, a reduction in FTE employees during your covered period reduces your loan forgiveness amount by the same percentage as the percentage reduction in FTE employees. For both first draw PPP loans and second draw PPP loans, you must first select a reference period:

i. February 15, 2019 through June 30, 2019;
ii. January 1, 2020 through February 29, 2020; or
iii. In the case of a seasonal employer, either of the two preceding methods or a consecutive 12 week period between February 15, 2019 and February 15, 2020. If the average number of FTE employees during the covered period is less than during the reference period, the total eligible expenses available for forgiveness is reduced proportionally by the percentage reduction in FTE employees. For example, if you had 10.0 FTE employees during the reference period and this declined to 8.0 FTE employees during the covered period, the percentage of FTE employees declined by 20 percent and thus only 80 percent of otherwise eligible expenses are available for forgiveness.

Washington Trust Tip: A borrower is a "seasonal employer" if: "…it does not operate for more than 7 months in any calendar year or, during the preceding calendar year, it had gross receipts for any 6 months of that year that were not more than 33.33% of the gross receipts for the other 6 months of that year. Seasonal Employers must determine its maximum loan amount for purposes of the PPP by using the employer's average monthly total payments for payroll for any 12 week period selected by the seasonal employer beginning February 15, 2019, and ending February 15, 2020."

You are exempted from the loan forgiveness reduction due to a proportional reduction in FTE employees during the covered period if you are able to document in good faith the following:

i. An inability to rehire individuals who were employees of the borrower on February 15, 2020; and
ii. An inability to hire similarly qualified individuals for unfilled positions on or before December 31, 2020 (or, for a PPP loan made on or after December 27, 2020, not later than the last day of the loan's covered period).

You are also exempted from the loan forgiveness reduction due to a reduction in the number of FTE employees during the covered period if you able to document in good faith an inability to return to the same level of business activity you were operating at before February 15, 2020, due to compliance with requirements established or guidance issued between March 1, 2020 and December 31, 2020 (or, for a PPP loan made on or after December 27, 2020, not later than the last day of the loan's covered period) by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention (CDC), or the Occupational Safety and Health Administration related to the maintenance of standards for sanitation, social distancing, or any other worker or customer safety requirement related to COVID-19 (COVID Requirements or Guidance). Specifically, if you can certify you have documented in good faith that their reduction in business activity during the covered period stems directly or indirectly from compliance with such COVID Requirements or Guidance you are exempt from any reduction in their forgiveness amount stemming from a reduction in FTE employees during the covered period.

Example: A PPP borrower is in the business of selling beauty products both online and at its physical store. During the covered period, the local government where the borrower's store is located orders all non-essential businesses, including the borrower's business, to shut down their stores, based in part on COVID-19 guidance issued by the CDC in March 2020. Because the borrower's business activity during the covered period was reduced compared to its activity before February 15, 2020 due to compliance with COVID Requirements or Guidance, the borrower satisfies the exemption and will not have its forgiveness amount reduced because of a reduction in FTEs during the covered period, if the borrower in good faith maintains records regarding the reduction in business activity and the local government's shutdown orders that reference a COVID Requirement or Guidance as described above.

Washington Trust Tip: Full-time equivalent employee means an employee who works 40 hours or more, on average, each week. The hours of employees who work less than 40 hours are calculated as proportions of a single full-time equivalent employee and aggregated, as explained further below.

How do you calculate the number of FTE employees?

If you are seeking forgiveness you must document your average number of FTE employees during the covered period and your selected reference period. If applicable, you must perform this calculation for both your first draw PPP loan and second draw PPP loan. For purposes of this calculation, you must divide the average number of hours paid for each employee per week by 40, capping this quotient at 1.0. For example, an employee who was paid 48 hours per week during the covered period would be considered to be an FTE employee of 1.0.

For employees who were paid for less than 40 hours per week, you may choose to calculate the full-time equivalency in one of two ways.

First, you may calculate the average number of hours a part-time employee was paid per week during the covered period. For example, if an employee was paid for 30 hours per week on average during the covered period, the employee could be considered to be an FTE employee of 0.75. Similarly, if an employee was paid for ten hours per week on average during the covered period, the employee could be considered to be an FTE employee of 0.25.

Second, for administrative convenience, you may elect to use a full-time equivalency of 0.5 for each part-time employee. The administrator recognizes that not all borrowers maintain hours-worked data, and has decided to afford such borrowers this flexibility in calculating the full-time equivalency of their part-time employees.

Washington Trust Tip: You may select only one of these two methods, and must apply that method consistently to all of your part-time employees for the covered period and the selected reference period.

What effect does a reduction in employees' salary or wages have on your loan forgiveness amount?

Any reduction in an employee's salary or wages in excess of 25 percent will generally result in a reduction in the loan forgiveness amount, unless an exception applies. Specifically, for each new employee in 2020 and 2021, as well as each existing employee who was not paid more than the annualized equivalent of $100,000 in any pay period in 2019, you must reduce the total forgiveness amount by the total dollar amount of the salary or wage reductions that are in excess of 25 percent of base salary or wages of the employee during the most recent full quarter during which the employee was employed before the covered period (the reference period), subject to exceptions for certain borrowers who restore reduced wages or salaries. This reduction calculation is performed on a per employee basis, not in the aggregate. Additionally, this reduction is performed based on the covered period and reference period applicable to the first draw loan or second draw loan.

Example: A borrower is using a 24 week covered period. This borrower reduced a full-time employee's weekly salary from $1,000 per week during the reference period to $700 per week during the covered period. The employee continued to work on a full-time basis during the covered period, with an FTE of 1.0. In this case, the first $250 (25 percent of $1,000) is exempted from the loan forgiveness reduction. The borrower seeking forgiveness would list $1,200 as the salary/hourly wage reduction for that employee (the extra $50 weekly reduction multiplied by 24 weeks)

Washington Trust Tip: Previously, this rule provided that you must account for the salary reduction for the full 24 week covered period if you applied for forgiveness before the end of the covered period. This is no longer the rule because you are now allowed to select a covered period between 8 and 24 weeks and there is no need to apply for forgiveness before the end of the covered period.

How should you account for the reduction in the number of employees relative to the reduction relating to salary and wages?

To ensure that you are not doubly penalized, the salary/wage reduction applies only to the portion of the decline in employee salary and wages that is not attributable to the FTE reduction.

Example: An hourly wage employee had been working 40 hours per week during the borrower selected reference period (FTE employee of 1.0) and the borrower reduced the employee's hours to 20 hours per week during the covered period (FTE employee of 0.5). There was no change to the employee's hourly wage during the covered period. Because the hourly wage did not change, the reduction in the employee's total wages is entirely attributable to the FTE employee reduction and the borrower is not required to conduct a salary/wage reduction calculation for that employee.

If you restore reductions made to employee salaries and wages or FTE employees, can the borrower avoid a reduction in its loan forgiveness amount?

Yes. The Small Business Act provides that if certain employee salaries and wages were reduced between February 15, 2020 and April 26, 2020 (the safe harbor period) but you restored the salaries and wages by December 31, 2020 (or, for a PPP loan made on or after December 27, 2020, by the last day of the loan's covered period), you are exempt from any reduction in loan forgiveness amount that would otherwise be required due to reductions in salaries and wages. Similarly, if you restored the number of FTE employees by December 31, 2020 (or, for a PPP loan made on or after December 27, 2020, by last day of the loan's covered period), you are exempt from any reduction in loan forgiveness amount that would otherwise be required due to reductions in FTE employees.

Will your loan forgiveness amount be reduced if an employee is fired for cause, voluntarily resigns, or voluntarily requests a schedule reduction?

No. When an employee is fired for cause, voluntarily resigns, or voluntarily requests a reduced schedule during the covered period (FTE reduction event), you may count such employee at the same full-time equivalency level before the FTE reduction event when calculating the section FTE employee reduction penalty.

If you have a loan of $50,000 or less, are you exempt from any reductions to the loan forgiveness amount?

Yes. If you have a loan of $50,000 or less you are exempt from reductions in the borrower's loan forgiveness amount based on reductions in FTE employees or reductions in employee salary or wages that would otherwise apply. Borrowers with affiliates that had aggregate first or second draw loans of $2 million or more are not exempt from the reductions in forgiveness amounts for FTE employees and salary or wages.

Washington Trust Tip: This is why it is crucial you fill out the correct forgiveness application. Please work with your Washington Trust banker to ensure you are using the appropriate forgiveness forms.

Documentation Requirements

What documentation must be submitted with your forgiveness application?

The loan forgiveness application form will indicate the documents required. For example, documentation you must submit with your loan forgiveness application (SBA Form 3508, 3508EZ, 3508S as applicable, or lender equivalent), documentation you are required to maintain and make available upon request, and documentation you may voluntarily submit with its loan forgiveness application. Please follow your application closely.

If you received a first draw loan of $150,000 or less you should use the SBA Form 3508S. You are not required to submit supporting documentation other than the certification and information on the form at the time of forgiveness application. If you received a second draw loan of $150,000 or less, you are required to submit documentation with your forgiveness application to evidence a reduction in gross receipts of 25% quarter over quarter or annual. Documentation may include relevant tax forms, including annual tax forms, or, if relevant tax forms are not available, a copy of your quarterly income statements or bank statements.

All other borrowers must submit Form 941 and state quarterly business and individual employee wage reporting and unemployment insurance tax forms or equivalent payroll processor records that best correspond to the covered period (with evidence of any retirement and group health, life, disability, vision, and dental insurance contributions). Whether or not the borrower has employees, the borrower must submit evidence of business rent, business mortgage interest payments on real or personal property, business utility payments, or payments for a covered operations expenditure, covered property damage cost, covered supplier cost, or covered worker protection expenditure during the covered period if the borrower used loan proceeds for those purposes. This documentation may include cancelled checks, payment receipts, transcripts of accounts, purchase orders, orders, invoices, or other documents verifying payments on non-payroll costs.

Washington Trust Tip: For second draw PPP loans, you must certify on your forgiveness application that you used all first draw PPP loan amounts on eligible expense prior to disbursement of the second draw PPP loan. For second draw PPP loans in excess of $150,000 you must submit your loan forgiveness application for your first draw PPP loan before or simultaneously with your loan forgiveness application for the second draw PPP loan, even if the calculated forgiveness amount for your first draw PPP loan is zero.

Again, it is crucial to note that your forgiveness application will help provide you, in detail, what documentation is required. Please ensure you are using the appropriate forgiveness application and follow the instructions closely.

Potential SBA Review of your PPP Loan

Will your loan be audited or reviewed by the SBA?

Technically speaking, all loans, regardless of size, are subject to SBA review at its discretion. For example, the SBA may review a loan if the loan documentation submitted to the SBA or any other information indicates that you may be ineligible for a PPP loan, or may be ineligible to receive the loan amount or loan forgiveness amount claimed in your application. For this reason, it is crucial that you retain copies of all records submitted with your application. In the event you are audited or subject to an SBA review, the more organized you are with your records the easier it will be to verify your loan forgiveness calculations. SBA requires that records must be retained in your files for an extended time after full forgiveness or paid in full.

Washington Trust Tip: The SBA has made clear for this round of PPP that the level of scrutiny for reviewing loans will be increased. This is not by any means a reason to be concerned or anxious; rather, it is simply a call from the SBA to be organized and precise with following the rules and procedures of the PPP and to be organized in your record keeping.

If my loan is audited or reviewed by the SBA, will I have a chance to respond?

Yes. If loan documentation submitted to the SBA or any other information indicates that you may be ineligible for a PPP loan or may be ineligible to receive the loan amount or loan forgiveness amount claimed in your application, the SBA will require Washington Trust to contact you in writing to request additional information. The SBA may also contact you directly for additional information. The SBA will consider all information you provide in response to such an inquiry.

If, after review or audit by the SBA, they determine you are ineligible for a PPP loan, can you still seek forgiveness?

No. You will be denied loan forgiveness and be left with your disclosed loan terms to be paid back at 1%. Furthermore, if the SBA determines you acted in bad faith in obtaining your PPP loan, they may seek additional remedies from you and your business.

Can you appeal the SBA's decision if they find you ineligible for a PPP loan?

Yes. You may appeal the SBA's determination directly to the Office of Appeals and Hearings. Washington Trust can help you understand the process for doing this, but can in no way help you with the subject of your appeal. As you lender, we cannot appeal a decision by the SBA. You must work with your legal counsel to appeal.